

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)	
)	Case No. 1:01-cr-58
v.)	
)	Judge McDonough/Steger
JERMAINE TARPkin)	
)	

MEMORANDUM AND ORDER

JERMAINE TARPkin (“Defendant”) came before the Court for an initial appearance on January 12, 2017, in accordance with Rule 32.1 of the Federal Rules of Criminal Procedure on the Petition for Warrant for Offender Under Supervision (“Petition”).

After being sworn in due form of law, Defendant was informed of his privilege against self-incrimination under the 5th Amendment and his right to counsel under the 6th Amendment to the United States Constitution.

The Court determined Defendant wished to be represented by an attorney and that he qualified for the appointment of an attorney to represent him at government expense. Consequently, the Court APPOINTED Federal Defender Services of Eastern Tennessee, Inc. (specifically, Erin Rust) to represent Defendant.

Defendant was furnished with a copy of the Petition, and had an opportunity to review that document with his attorney. The Court determined that Defendant was able to read and understand the Petition with the assistance of his counsel. In addition, AUSA Steve Neff explained to Defendant the specific charges contained in the Petition. Defendant acknowledged that he understood the charges in the Petition.

The Government moved Defendant be detained pending a determination by Judge McDonough as to whether his term of supervised release should be revoked. The Court explained Defendant’s right to a preliminary hearing and detention hearing and what those hearings entail. Defendant conferred with his counsel and waived the preliminary hearing; however, he requested that the Court conduct a detention hearing.

The Court conducted a detention hearing on January 12, 2017. The government called as a witness United States Probation Officer Rashard Montgomery. Mr. Montgomery was sworn in and testified to the facts contained in the Petition, including a recitation of the various violations of conditions of supervision committed by Defendant (i.e., possession and unlawful use of a controlled substance; leaving the judicial district without permission of the probation officer; failing to submit a truthful written report within the first five days of each month; failing

to answer truthfully all inquiries by the probation officer and to follow instructions of the probation officer; failing to refrain from excessive use of alcohol; and frequenting places where controlled substances are illegally sold, used, distributed or administered). Defendant's counsel, Erin Rust, cross-examined the government's witness and proffered evidence on behalf of Defendant. No further witnesses were presented. Counsel for both sides were given an opportunity to argue for and against detention.

The Court finds that Defendant has committed violations of his conditions of supervised release, and that Defendant has not carried the burden of establishing by clear and convincing evidence that he will not flee or pose a danger to any other person or to the community. Consequently, the Court GRANTED the Government's oral motion to detain Defendant pending disposition of the Petition or further order of this Court.

It is, therefore, ORDERED that:

1. Counsel for Defendant and the Government shall confer and make best efforts to submit to U.S. District Judge McDonough a proposed Agreed Order with respect to an appropriate disposition of the Petition for Warrant for Offender Under Supervision.
2. In the event counsel are unable to reach agreement with respect to an appropriate disposition of the Petition for Warrant for Offender Under Supervision, they shall request a hearing before United States District Judge McDonough.
3. The government's motion that Defendant be DETAINED WITHOUT BAIL pending further Order of this Court is **GRANTED**.

ENTER.

s/Christopher H. Steger
United States Magistrate Judge